

SECURITY PERSONNEL LICENSING ACT

Part 1 - General Provisions

58-63-101. Title.

This chapter is known as the "Security Personnel Licensing Act."

58-63-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Armed courier service" means a person engaged in business as a contract security company who transports or offers to transport tangible personal property from one place or point to another under the control of an armed security officer employed by that service.
- (2) "Armed private security officer" means an individual:
 - (a) employed by a contract security company;
 - (b) whose primary duties is that of guarding personal or real property, or providing protection or security to the life and well being of humans or animals; and
 - (c) who wears, carries, possesses, or has immediate access to a firearm at any time in the performance of the individual's duties.
- (3) "Armored car service" means a person engaged in business as a contract security company who transports or offers to transport tangible personal property from one place or point to another under the control of an armed or unarmed private security officer employed by the company using a specially equipped motor vehicle offering a high degree of security.
- (4) "Board" means the Security Services Licensing Board created in Section 58-63-201.
- (5) "Contract security company" means a person engaged in business to provide security or guard services to another person for the purpose of protecting tangible personal property, real property, or the life and well being of human or animal life by assignment of security officers employed by the company and the use of specialized resources, motor vehicles, or equipment.
- (6) "Identification card" means a personal pocket or wallet size card issued by the division to each security officer licensed under this chapter.
- (7) "Officer" means a president, vice president, secretary, treasurer, or other officer of a corporation or limited liability company listed as an officer in the files of the Division of Corporations and Commercial Code.
- (8) "Owner" means a proprietor or general partner of a proprietorship or partnership, a lessee or assignee of the owner, the manager of the facility, or the event operator.
- (9) "Peace officer" means a person who:
 - (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications; and
 - (b) drives total or special law enforcement powers from, and is an employee of the federal government, the state, or any political subdivision, agency, department, branch, or service of either, of any municipality, or of any other unit of local government.
- (10) "Regular basis" means 20 or more hours per month.
- (11) (a) "Security officer" means an individual who:
 - (i) is employed by a contract security company securing, guarding, or otherwise protecting tangible personal property, real property, or the life and well being of human or animal life against:
 - (A) trespass or other unlawful intrusion or entry;
 - (B) larceny;
 - (C) vandalism or other abuse;
 - (D) arson or any other criminal activity; or
 - (E) personal injury caused by another person or as a result of acts or omissions by another person;
 - (ii) is controlling, regulating, or directing the flow of movements of individuals or vehicles; or
 - (iii) providing street patrol service.
- (b) "Security officer" does not include an individual whose duties are limited to custodial or other services even though the presence of that individual may act to provide some of the services set forth under Subsection (11)(a).

- (c)
 - (i) "Security officer" does not include an individual whose duties include taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other materials to be carried into a facility as described in Subsection (11)(c)(ii) if:
 - (A) the individual carries out these duties without the use or aid of any specialized equipment;
 - (B) the authority of the individual is limited to denying entry or passage of a person into or within the facility; and
 - (C) the individual is not authorized to use physical force in the performance of the duties under this Subsection (11)(c).
 - (ii) As used in this Subsection (11)(c), "facility" means a sports, concert, or theatrical venue or any convention center, fairgrounds, public assembly facility, or mass gathering location.
- (12) "Security system" means equipment, devices, or instruments installed for the purpose of:
 - (a) detecting and signaling entry or intrusion by some individual into or onto, or exit from the premises protected by the system; or
 - (b) signaling the commission of a robbery or other criminal activity at the election of an individual having control of the features of the security system.
- (13) "Specialized resources, motor vehicles, or equipment" means items of tangible personal property specifically designed for use in law enforcement or in providing security or guard services, or that have been specially equipped with devices or features specifically designed for use in providing law enforcement, security, or guard services, but do not include:
 - (a) standardized clothing, whether or not bearing a company name or logo, if the clothing does not bear the words "security" or "guard"; or
 - (b) items of tangible personal property, other than firearms or nonlethal weapons, that may be used without modification in providing security or guard services.
- (14) "Street patrol service" means a person engaged in business as a contract security company who provides patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of their duties and responsibilities.
- (15) "Unarmed private security officer" means an individual:
 - (a) employed by a contract security company;
 - (b) whose primary duty is that of guarding person or real property, or providing protection or security to the life and well being of humans or animals;
 - (c) who never wears, carries, possess, or has immediate access to a firearm at any time in the performance of his duties; and
 - (d) who wears clothing of distinctive design or fashion bearing any symbol, badge, emblem, insignia, or other device that identifies or tends to identify the wearer as a security officer.
- (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-63-501.
- (17) "Unprofessional conduct" is as defined in Section 58-1-501 and 58-63-502 and as may be further defined by rule.

58-63-103. Use of dedicated credits for licensing, education, and enforcement.

- (1) The director may, with the concurrence of the board, use the monies collected under Section 58-63-503 for the following purposes:
 - (a) educating and training licensees under this chapter;
 - (b) educating and training the general public or other interested persons in matters concerning the laws that govern the practices licensed under this chapter; and
 - (c) enforcing this chapter by:
 - (i) investigating unprofessional or unlawful conduct; and
 - (ii) providing legal representation to the division when it takes legal action against a person charged with unprofessional or unlawful conduct.
- (2) The monies collected under Section 58-63-503 and used for the purposes listed in Subsection (1) are nonlapsing.

Part 2 - Board

58-63-201. Board.

- (1) There is created the Security Services Licensing Board consisting of:
 - (a) three individuals who are officers or owners of licensed contract security companies;
 - (b) one individual from among nominees of the Utah Sheriff's Association;
 - (c) one individual from among nominees of the Utah Chief's of Police Association; and
 - (d) one individual representing the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-201 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who, under Subsection (3) has reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensing

58-63-301. Licensure required - License classifications.

- (1) A license is required to engage in the practice of a contract security company, armed private security officer, or unarmed private security officer, except as specifically provided in Section 58-63-304, 58-63-310, or 58-1-307.
- (2) The division shall issue a person who qualifies under this chapter a license in the classifications:
 - (a) contract security company;
 - (b) armed private security officer; or
 - (c) unarmed private security officer.

58-63-302. Qualifications for licensure.

- (1) Each applicant for licensure as a contract security company shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) have a qualifying agent who is a resident of the state and an officer, director, partner, proprietor, or manager of the applicant who:
 - (i) passes an examination component established by rule by the division in collaboration with the board; and
 - (ii) (A) demonstrates 6,000 hours of experience as a manager, supervisor, or administrator of a contract security company; or
(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;
 - (d) if a corporation provide:
 - (i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and
 - (ii) the names, addresses, dates of birth, and social security number, of all shareholders owning 5% or more of the outstanding shares of the corporation, except this may not be required if the stock is publicly listed and traded;
 - (e) if a limited liability company provide:
 - (i) the names, addresses, dates of birth, and social security numbers of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and
 - (ii) the names, addresses, dates of birth, and social security number of all individuals owning 5% or more of the equity of the company;

- (f) if a partnership, the names, addresses, dates of birth, and social security numbers of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;
 - (g) if a proprietorship, the names, addresses, dates of birth, and social security numbers of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;
 - (h) be of good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of a contract security company is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;
 - (i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:
 - (i) have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and
 - (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
 - (j) file and maintain with the division evidence of:
 - (i) comprehensive general liability insurance in form and in amounts to be established by rule by the division in collaboration with the board;
 - (ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;
 - (iii) registration with the Division of Corporations and Commercial Code; and
 - (iv) registration as required by applicable law with the:
 - (A) Division of Workforce Information and Payment Services in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;
 - (B) State Tax Commission; and
 - (C) Internal Revenue Service; and
 - (k) meet with the division and board if requested by the division or board.
- (2) Each applicant for licensure as an armed private security officer shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 68-38-3.2;
 - (c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an armed private security officer is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;
 - (d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
 - (e) not be currently suffering from habitual drunkenness or from drug addition or dependence;
 - (f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;
 - (g) successfully complete firearms training requirements established by rule by the division in collaboration with the board;
 - (h) pass the examination requirement established by rule by the division in collaboration with the board; and
 - (i) meet with the division and board if requested by the division or the board.
- (3) Each applicant for licensure as an unarmed private security officer shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 68-38-3.2;
 - (c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an unarmed private security officer is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

- (d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
 - (e) not be currently suffering from habitual drunkenness or from drug addition or dependence;
 - (f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;
 - (g) pass the examination requirement established by rule by the division in collaboration with the board; and
 - (h) meet with the division and board if requested by the division or the board.
- (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants.
- (5) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), and (3)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:
- (a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and
 - (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.
- (6) The Department of Public Safety shall send to the division:
- (a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and
 - (b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.
- (7) (a) The division shall charge each applicant a fee, in accordance with Section 63-38-3.2, equal to the cost of performing the records review under this section.
- (b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.
- (8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

58-63-303. Term of license - Expiration - Renewal.

- (1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may be rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

58-63-304. Exemptions from licensure.

- (1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in acts regulated under this chapter without being licensed under this chapter:
 - (a) a peace officer employed by or licensed as a contract security company; and
 - (b) a person employed by a contract security company for the sole purpose of operating or staffing security apparatus, including a magnetometer, magnetometer wand, x-ray viewing device, or other device approved by rule of the division.
- (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division may make rules approving security apparatus under Subsection (1)(b).

58-63-305. Status of licenses held on the effective date of this chapter.

An individual holding a valid Utah license as a contract security company, armed private security officer, or unarmed private security officer under Title 53, Chapter 5, Part 4, Security Personnel Licensing and Regulation Act, on July 1, 1995, is:

- (1) on or after July 1, 1995, considered to hold a current license under this chapter in the comparable classification of contract security company, armed private security officer, unarmed private security officer; and
- (2) subject to this chapter.

58-63-306. Replacement of qualifying agent.

If the qualifying agent of a contract security company ceases to perform the agent's duties on a regular basis, the licensee shall notify the division within 15 days by registered or certified mail, and shall replace the qualifying agent within 30 days after the time required for notification to the division.

58-63-307. Use of firearms.

- (1) An individual licensed as an armed private security officer may carry a firearm only while acting as an armed private security officer in accordance with this chapter and rules made under this chapter.
- (2) An individual licensed as an armed private security officer is exempt from the provisions of Section 76-10-505 and 53-5-704 while acting as an armed private security officer in accordance with this chapter and rules made under this chapter.

58-63-308. Evidence of licensure.

An individual licensed as an armed private security officer or unarmed private security officer shall:

- (1) carry a copy of the individual's license on the individual's person at all times while acting as a licensee; and
- (2) display the license upon the request of a peace officer, a representative of the division, or a member of the public.

58-63-309. Operating standards - Rulemaking.

The division in collaboration with the board shall establish by rule operating standards that shall apply to the conduct of licensees under this chapter, including rules relating to use of uniforms, badges, insignia, designations, and representations used by or associated with a licensee's practice under this chapter.

58-63-310. Interim permits.

- (1) Upon receipt of a complete application for licensure in accordance with Section 58-63-302, an applicant for licensure as an armed private security officer or unarmed private security officer may be issued an interim permit.
- (2)
 - (a) Each interim permit shall expire 90 days after it is issued or on the date on which the applicant is issued a license, whichever is earlier.
 - (b) The division may reissue an interim permit if the delay in approving a license is beyond the control or influence of the interim permit holder.
- (3) An interim permit holder may engage in the scope of practice defined for the license classification that the interim permit holder is seeking.

Part 4 - License Denial and Discipline

58-63-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Part 5 - Unlawful Conduct - Unprofessional Conduct - Penalties

58-63-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) a contract security company employing the services of an unlicensed armed private security officer or unarmed private security officer, except as provided under Section 58-63-304 or 58-63-310;
- (2) filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the qualifications of the applicant for licensure; and
- (3) practicing or engaging in, or attempting to practice or engage in activity for which a license is required under this chapter, unless the individual:
 - (a) holds the appropriate license under this chapter; or
 - (b) is exempted from licensure as provided under Section 58-63-304 or 58-63-310.

58-63-502. Unprofessional conduct.

"Unprofessional conduct" includes:

- (1) failing as a contract security company to notify the division of the cessation of performance of its qualifying agent or failing to replace its qualifying agent, as required under Subsection 58-63-306;
- (2) failing as an armed private security officer or unarmed private security officer, to carry or display a copy of the licensee's license as required under Section 53-63-308;
- (3) employment by a contract security company of a qualifying agent, armed private security officer, or unarmed private security officer knowing that the individual has engaged in conduct that is inconsistent with the duties and responsibilities of a licensee under this chapter; and
- (4) failing to comply with operating standards established by rule.

58-63-503. Penalties.

- (1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-63-501 or who fails to comply with a citation issued under this section after it becomes final is guilty of a class A misdemeanor.
- (2) The division may immediately suspend a license issued under this chapter of a person who is given a citation for violating Subsection 58-63-501(1) or (3).
- (3)
 - (a) If upon inspection or investigation, the division determines that a person has violated Subsection 58-63-501(1) or (3) or any rule made or order issued under those subsections, and that disciplinary action is warranted, the director or the director's designee within the division shall promptly issue a citation to the person and:
 - (i) attempt to negotiate a stipulated settlement; or
 - (ii) notify the person to appear for an adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures Act.
 - (b)
 - (i) The division may fine a person who is in violation of Subsection 58-63-501(1) or (3), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to cease and desist from the violation, or do both.
 - (ii) Except for a cease and desist order, the division may not impose the licensure sanctions listed in Section 538-63-401 through the issuance of a citation under this section.
 - (c) The citation shall:
 - (i) be in writing and describe the nature of the violation, including a reference to the statute, rule, or order alleged to have been violated;
 - (ii) state the recipient must notify the division in writing within 20 calendar days of issuance of the citation if the recipient wants to contest the citation at the adjudicative proceeding referred to in Subsection (3)(a)(ii); and
 - (iii) explain the consequences of failure to timely contest the citation or to make payment of any fines assessed under the citation with the time specified in the citation.
 - (d)
 - (i) A citation issued under this section, or a copy of the citation, may be served upon any person upon whom a summons may be served personally or service may be made upon the individual's agent, and in either case the service can be made by a division investigator, by a person designated by the director, or by mail.
 - (e)
 - (i) If within 20 days from the service of a citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

- (ii) The division may grant an extension of the 20-day period for cause.
 - (f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.
 - (g) The division may not issue a citation for an alleged violation under this section after the expiration of six months following the occurrence of the alleged violation.
 - (h) The director or the director's designee may assess fines under this section as follows:
 - (i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;
 - (ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and
 - (iii) for any subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each day of continued violation.
 - (i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (3)(h), an offense is a second or subsequent offense if:
 - (A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-63-501(1) or (3); or
 - (B)
 - (I) the division initiated an action for a first or second offense;
 - (II) no final order has been issued by the division in an action initiated under Subsection (3)(i)(i)(B)(I);
 - (III) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-63-501(1) or (3); and
 - (IV) after determining that the person committed a second or subsequent offense under Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (3)(i)(i)(B)(I).
 - (ii) In issuing a final order for a second or subsequent offense under Subsection (3)(i)(i), the division shall comply with the requirements of this section.
- (4) (a) A fine imposed by the director under Subsection (3)(h) shall be deposited in the General Fund as dedicated credits to be used by the division for the purposes listed in Section 58-63-103.
 - (b) The director may collect a Subsection (3)(h) fine which is not paid by:
 - (i) referring the matter to the Office of State Debt Collection or a collection agency; or
 - (ii) bringing an action in the district court of the county in which the person resides or in the county where the office of the director is located.
 - (c) The director may seek legal assistance from the attorney general or the county or district attorney of the district in which the action is brought to collect the fine.
 - (d) The court shall award reasonable attorney's fees and costs to the division for successful actions under Subsection (4)(b)(ii).

Part 6 - Regulatory Jurisdiction

58-63-601. State preemption of local regulation.

- (1) A political subdivision of this state may not enact legislation, code, or ordinance, or make any rules relating to the licensing, training, or regulation of contract security companies or persons functioning as armed or unarmed private security officers.
- (2) Any legislation, code, ordinance, or rules made by any political subdivision of this state, relating to the licensing, training, or regulation of contract security companies or individuals functioning as an armed or unarmed private security officers are superseded by this chapter.

**SECURITY PERSONNEL
LICENSING ACT**

**Title 58, Chapter 63
Utah Code Annotated 1953
As Amended by
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